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DEC 20 2004

OFFICE OF PETITIONS

In re Application of
Farzin Sarem and Leila-Ouassila
Sarem Damerdji
Application No. 10/692,529
Filed: October 25, 2003
Attorney Docket No. 046190/270365

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the "STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R. § 1.47)", filed November 29, 2004, which is being treated as a petition under 37 C.F.R. § 1.47(b).

The petition under 37 C.F.R. § 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on October 25, 2003, without an executed oath or declaration. Accordingly, on September 29, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration, together with the surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition, and paid both the petition fee and the surcharge for late filing of the declaration.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirements (2) and (5).

As to requirement (2), Rule 47 applicant has not submitted a proper 37 C.F.R. 1.63 declaration. On renewed petition, applicant must submit an oath or declaration in compliance with 37 C.F.R. § 1.63. Here, the declaration was executed by "Its manager" John Christopher Conway. ~~When a corporation is the Rule 47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally execute the oath or declaration. Alternatively, a corporation may authorize any person, including a registered attorney or agent, to sign the oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, proof of the attorney's or agent's authority in the form of a statement signed by the appropriate corporate officer must be submitted, or the attorney or agent can simply state that he or she is authorized to sign on behalf of the corporation.¹~~

It does not appear that Conway is an "officer" of Rule 47(b) applicant Societe Nouvelle Cell Tissue Progress. Moreover, it does not appear that petitioner submitted a statement of authority for Conway to sign on behalf of Societe Nouvelle Cell Tissue Progress. On renewed petition, petitioner must submit a declaration executed by one of the officers of the corporation, or must include a statement of authority.

As to requirement (5), applicant has not shown a sufficient proprietary interest. It is true that a proprietary interest can be shown by submitting a copy of an agreement to assign (e.g. an employment agreement executed by the nonsigning inventor).² However, here the employment agreement submitted on petition is written in French. Accordingly, it can not be determined by the undersigned whether it contains an agreement to assign provision. On renewed petition, it is requested that petitioner submit a translated copy of the employment agreement.

The petition fee of \$130 has been charged to Deposit Account No. 16-0605, as authorized.

¹ See MPEP 409.03(b).

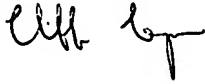
² See MPEP 409.03(f).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

By FAX: (703) 872-9306
 Attn: Office of Petitions

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.



Cliff Congo
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